

No. 14/13/87-6Lab./188.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Central Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of Presiding Officer, Industrial Tribunal-cum-Labour Court, Rohtak in respect of the dispute between the workman and the management of M/s. Engineer-in-Chief, PWD (Public Health) Haryana, Chandigarh *versus* Shri Satish Kumar.

IN THE COURT OF SHRI P. L. KHANDUJA, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL-
CUM-LABOUR COURT, ROHTAK

Reference No. 96 of 1993

between

SHRI SATISH KUMAR C/O SHRI O. P. DARYAL, ADVOCATE, 5, DUGGAL COLONY, KARNAL
.. Workman

and

M/S. ENGINEER-IN-CHIEF, PWD (PUBLIC HEALTH), HARYANA, CHANDIGARH, (2) EXECUTIVE
ENGINEER, PWD (PUBLIC HEALTH), DIVISION NO. 2, KARNAL
.. Management

Present : None for the parties.

AWARD

In exercise of the powers conferred by sub-clause (c) of sub-section (1) of Section 10 of the Industrial Disputes Act, 1947, the Governor of Haryana has referred the following dispute, between the parties, named above to this Court for adjudication, *vide* Labour Department Endorsement No. SOV/Pani/149—93/19076—92, dated 28th May, 1993 :—

Whether the termination of services of Shri Satish Kumar is justified and in order ? If not, to what relief he is entitled ?

2. The case was called several times, but no one present on behalf of the parties. Hence the case is dismissed in default, with no orders as to cost.

P. L. KHANDUJA,

Presiding Officer,
Industrial Tribunal/Labour Court,
Rohtak.

Dated the 23rd May, 1994

Endorsement No. 1374, dated 31st May, 1994

A copy is forwarded to the following :—

1. Labour Commissioner, Haryana, Chandigarh.
2. Labour Officer, Karnal.

P. L. KHANDUJA,

Presiding Officer,
Industrial Tribunal/Labour Court,
Rohtak.

No. 14/13/87-6Lab./189.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Central Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of Presiding Officer, Industrial Tribunal-cum-Labour Court, Rohtak, in respect of the dispute between the workman and the management of M/s. M. D. Haryana State Co-op. Supply and Marketing Federation Ltd., Chandigarh *versus* Shri Ram Sarup.

IN THE COURT OF SHRI P. L. KHANDUJA, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL-
CUM-LABOUR COURT, ROHTAK

Reference No. 470 of 1992

between

SHRI RAMSARUP, S/O SHRI CHANDGI RAM, VILLAGE BHARI, P. O. KHASS,
DISTRICT PANIPAT

.. Workman

and

M/S. M.D. THE HARYANA STATE CO-OPERATIVE SUPPLY AND MARKETING FEDERATION
LTD., CHANDIGARH
.. Management

Present :

Shri Karan Singh, A. R., for the workman.
Shri M.C. Bhardwaj, A. R., for the management.

AWARD

In exercise of powers conferred by sub-clause (c) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947, the Governor of Haryana has referred the following dispute, between the parties, named above, to this Court for adjudication,—vide Labour Department Notification No. 3/25/90-3Lab., dated 29th October, 1991 :—

Whether the termination of services of Shri Ram Sarup is justified and in order ? If not, to what relief he is entitled ?

2. After receipt of the order the usual notices were issued to the parties. The workman appeared and filed the demand notice under section 2-A of the I.D. Act that he was working with the District Manager, Hafed i.e. respondent/management with effect from 15th September, 1986 on pay of Rs. 500 P.M. and the services were terminated on 2nd June, 1988 without giving any notice, chargesheet, notice pay and retrenchment compensation and hence action of the management is illegal and liable to be set aside. The workman has prayed for reinstatement alongwith continuity of service and full back wages.

3. The management has filed the reply to the demand notice that the reference is bad in law, as there is no Industrial Dispute involved in the present case. The workman had been appointed for a fixed period against a specific work and on completion of the said job, his services come to an automatically end; the workman is estopped from challenging the action of the respondent/management since he had accepted the appointment; the workman was never appointed or worked as work-supervisor in the office of District Manager on a monthly salary of Rs. 500. there is no such sanctioned post of work-supervisor in the said office. It is also pleaded that after completion of the construction work the workman was again appointed as work-supervisor from 3rd March, 1988 to 30th May, 1988 for 89 days,—vide XEN Hafed, Chandigarh letter No. Hafed/EE/Gen/iv/1278-89, dated 19th April, 1988 against the work of construction on 1000 M.T. Godown and hence the reference petition is bad in law and be dismissed accordingly.

4. Replication was filed by the workman. On the pleadings of the parties, the following issues were framed :—

(1) As per terms of reference ?

(2) Relief ?

5. My findings on the above issues are as under :—

Issue No. 1

6. The workman has come into witness box as WW-1 and closed his evidence. The management has examined Shri Arvinder Pal Singh as MW-1 and closed the evidence.

7. The management produced on record Ex.M-1 to Ex.M-6 to show that the workman was appointed for 89 days on each term. It is thus proved that the workman had worked for fixed period. The contention raised by the learned A.R. for the management is that the case of the workman is covered under section 2(oo)(bb) of the I.D. Act and not covered under section 25-F of the I.D. Act and hence he is not entitled to the relief.

8. For the support of his case the reference was placed on Mohinder Singh Shohan Pal *versus* The Presiding Officer, Labour Court, U.T., Chandigarh and another cited in 1993-94 RSJ 400 holding that petitioner's appointment was incoherent in as much as the continuation of the petition in service was dependent upon the approval of the Governing Body regarding relaxation of age in favour of the petitioner—petitioner could at the most continue for a period of six months in absence of any decision one way or the other by the Governing Body—No letter or any communication to the petitioner that after a period of six month petition has continued—Question that arises is, has he continued on the basis of a valid order of appointment ? Answer has to be in the negative—Question of violation of Section 25-F in the circumstances of the case did not arise, as the termination of the services of the petitioner was in accordance with the terms and conditions of the appointment letter.

9. For the contention was also made to Sat Pal Singh *versus* Union of India and others cited in 1990 (2) S.L.R. 112. However the learned A.R. for the management has also made submission that if the workman had completed 240 days in service the workman is entitled to the relief under Section 25-F of the I.D. Act and he is not covered under Section 2(oo)(bb) of the I.D. Act. For this contention the reference was made to the Kurukshetra Central Co-op. Bank Ltd., Kurukshetra through its Managing Director *versus* State of Haryana through the Secretary, Labour and Employment Department, Government of Haryana, Chandigarh and others cited in 1994 LLR 67 holding that—As many as five notional breaks ranging between two and ten days given to the workman in a period of 1½ years. It is not the case of the petitioner employer that after 19th September, 1987, the work that was being taken from the respondent ceased to exist and no one was thereafter ever employed. The employer cannot be permitted to act in such a way that may cause complete

injustice to the workman and also to conventionally deviate from the provisions of law of retrenchment which necessarily requires one month's notice compensation in lieu thereof at the time of retrenchment. It is not disputed that the aforesaid procedure was not followed in this case. No exception can, thus be taken to the well reasoned award passed by the Labour Court.

10. The authority produced by the learned A.R. for the workman of Punjab and Haryana High Court which is to prevail over the judgement produced by the learned A.R. for the management. Secondly of the reason that as the applicant worked for more than 240 days and the employer has been appointing afreshly only to avoid the application of Section 25-F of the I. D. Act and which has not been found to be accordance with law. For the above said reason I am of the view that as the service of the workman have been terminated not according to Section 25-F and I accept the reference and demand notice of the workman and decide this issue in favour of the workman.

Issue No. 2 (Relief) :

11. In view of my findings on the above issue I hold that the workman is entitled to be reinstated with continuity of service and with 40 per cent back wages. The reference is answered and returned accordingly, with no orders as to costs.

P. L. KHANDUJA,

Dated the 18th April, 1994.

Presiding Officer,
Industrial Tribunal/Labour Court,
Rohtak.

Endorsement No. 1095, dated the 28th April, 1994

A copy is forwarded to the following :—

1. Labour Commissioner, Haryana, Chandigarh.
2. Labour Officer, Panipat.

P. L. KHANDUJA,

Presiding Officer,
Industrial Tribunal/Labour Court,
Rohtak.

No. 14/13/87-6L ab./190.— In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Central Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of Presiding Officer, Industrial Tribunal-cum-Labour Court, Rohtak in respect of the dispute between the workman and the management of M/s. Executive Engineer, PWD (B&R), Jhajjar *versus* Mahabir Singh.

IN THE COURT OF SHRI P. L. KHANDUJA, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, ROHTAK

Reference No. 866 of 1992

SHRJ MAHABIR SINGH, S/O SHRI RANBIR SINGH, VILLAGE CHHARA, DISTRICT ROHTAK
.. *Workman*

and

M/S. (1) EXECUTIVE ENGINEER, PWD (B&R), JHAJJAR, (2) S.D.O. P.W.D. (B&R) SUB DIVISION NO. 2, JHAJJAR
.. *Management*

Present : None, for the parties.

AWARD

In exercise of powers conferred by sub-clause (c) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947, the Governor of Haryana has referred the following dispute, between the parties, named above, to this court, for adjudication, *-vide* Labour Department Endorsement No. S.O. V./1./Roh/181-98/55326-332, dated 11th December, 1992 :—

Whether the termination of services of Shri Mahabir Singh is justified and in order ? If not, to what relief he is entitled ?

2. The case called several times but no one appeared on behalf of the parties. Hence the reference is dismissed in default, with no orders as to costs.

P.L. KHANDUJA,

Dated : 27th July, 1994.

Presiding Officer,
Industrial Tribunal/Labour Court,
Rohtak.

Endorsement No. 1693, dated 29th July, 1994.

Forwarded (four copies) to the Secretary to Government Haryana, Labour and Employment Departments, Chandigarh.

P.L. KHANDUJA,

Presiding Officer,
Industrial Tribunal/Labour Court
Rohtak

No. 14/13/87-6Lab./191.- In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Central Act No. XIV of 1947) the Governor of Haryana is pleased to publish the following award of Presiding Officer, Industrial Tribunal-cum-Labour Court, Rohtak respect of the dispute between the workman and the management of Secretary, HSEB, Panchkula *versus* Shri Pale Ram.

IN THE COURT OF SHRI P.L. KHANDUJA, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, ROHTAK

Reference No. 283 of 1992

Between

SHRI PALE RAM, C/O PRESIDENT, BHARTIYA MAZDOR SANGH, G.T. ROAD, PANIPAT

.. Workman

And

THE MANAGEMENT OF M/S. (1) THE SECRETARY HARYANA STATE ELECTRICITY BOARD, SECTOR-6, PANCHKULA, DISTRICT AMBALA, (2) EXECUTIVE ENGINEER, S.I.C. DIVISION, HARYANA STATE ELECTRICITY BOARD, KUNJPURA ROAD, KARNAL

.. Management

Present :

None for the parties.

AWARD

In exercise of powers conferred by Sub-Clause (c) of Sub Section (1) of Section 10 of the Industrial Disputes Act, 1947, the Governor of Haryana has referred the following dispute, between the parties, named above to this Court for adjudication, —vide Labour Department Notification No. 3/25/90-3Lab., dated 29th October, 1991 :—

Whether the termination of services of Shri Pale Ram, is, justified and in order ? If not what relief he is entitled ?

2. The case was called several times but no one appeared on behalf of the parties. It appears that the parties are not interested in their case and hence the reference is dismissed in default, with no orders as to costs.

P.L. KHANDUJA,

Dated : 19th April, 1994.

Presiding Officer,
Industrial Tribunal/Labour Court,
Rohtak.

Endorsement No. 1105, dated 28th April, 1994.

A copy is forwarded to the following :—

1. Labour Commission, Haryana, Chandigarh.
2. Labour Officer, Karnal.

P.L. KHANDUJA,

Presiding Officer,
Industrial Tribunal/Labour Court,
Rohtak.